



17 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON NJ 08540

In re Application of
CHUGH et al.
Application No.: 10/593,939 : DECISION
PCT No.: PCT/IB2004/000866 :
Int. Filing Date: 23 March 2004 :
Priority Date: 22 March 2004 :
Attorney's Docket No.: RLL-459US :
For: COMBINATION THERAPY :
:

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(b)" filed in the United States Patent and Trademark Office (USPTO) on 25 February 2008.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/IB2004/000866, which designated the United States and claimed a priority date of 22 March 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 September 2006.

On 22 September 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 May 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 25 February 2008, applicants submitted the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(b)" and a declaration of inventors.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of

abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that a "copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." Such a docket record has been provided. Thus, item (3) has been met as well.

Declaration of Inventors

The declaration of inventors filed 25 February 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459